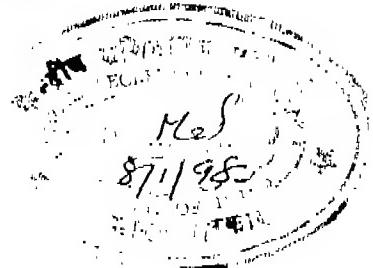




भारत का राजपत्र

The Gazette of India

असाधारण
EXTRAORDINARY
भाग II-खण्ड 2
PART II—Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY



सं 27] नई दिल्ली, शुक्रवार, जुलाई 25, 1997 / श्रावण 3, 1919
No. 27] NEW DELHI, FRIDAY, JULY 25, 1997 / SHRAVANA 3, 1919

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 25th July, 1997:—

I

BILL NO. XXIV OF 1997

A Bill further to amend the Forest (Conservation) Act, 1980.

Be it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

26 of 1980.

1. This Act may be called the Forest (Conservation) Amendment Act, 1997.

Short title.

2. In section 2 of the Forest (Conservation) Act, 1980 (hereinafter referred to as the principal Act), after clause (iv), the following proviso shall be added, namely:—

Amendment of section 2.

“Provided that if the Chief Conservator of Forest of the State is convinced that diversion of forest land or clearing of naturally grown trees is essential and unavoidable for construction of roads, laying drinking water pipelines, or of telegraph, telephone or electrical wires over or under ground, for the benefit of general public, he may after evaluating the damages and recovering the compensation from the Department/Agency, be it central or state, award permission and submit the details to the Principal Chief conservator of the Forest.

3. In section 4 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment of section 4.

“(1) The Central Government in Consultation with the State Government may, by notification in the Official Gazette, make rules for carrying out the provision of this Act.”

STATEMENT OF OBJECTS AND REASONS

The Forest (Conservation) Act, 1980 provides that any forest land or any portion thereof if used for non-forest purpose or felling of naturally grown trees requires approval of the Principal Chief Conservator of forest. Such approvals are delayed inordinately resulting in hardships and inconvenience to specifically Adivasis conventionally residing around the forest areas. Supplies of life sustaining drugs and foodgrains have hampered in past resulting in deaths of the Indian citizens. Therefore it is essential that the State Governments should have limited authority in approving and completing such projects, which are beneficial to general public.

Hence this Bill.

SATISH PRADHAN.

II

BILL No. XXVI OF 1997

A Bill further to amend the Code of Criminal Procedure, 1973.

Be it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

2 of 1974.

1. This Act may be called The Code of Criminal Procedure (Amendment) Act, 1997.
2. In section 200 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the principal Act), after the second proviso, the following provisos shall be inserted, namely:—

Provided also that—

Short title.
Amendment
of section
200.

(a) a complaint filed under this section by any complainant shall name the opposite party against whom the complaint is filed as "respondent" and not as an "accused", and if the Magistrate issues summons to the respondent, the respondent may appear either personally or through an authorized agent/advocate; and

(b) if the Magistrate comes to a conclusion that a case is made out and frames charges, the word "respondent" shall be replaced by the word "accused", and thereupon the accused shall make personal appearance if so directed.

3. In section 204 of the principal Act,—

Amendment
of section
204.

(a) for sub-section (1), the following sub-section shall be substituted namely:—

"(1) If in the opinion of a Magistrate taking cognizance of an offence, there is sufficient ground for proceeding, and the case appears to be a summons-case or a warrant-case, he shall issue summons for the attendance of the respondent, either in person or through an authorised agent/advocate."

(b) in sub-sections (2) and (3), the words "or warrant" shall be omitted.

(c) sub-section (5) shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Under the Code of Criminal Procedure, a complaint can be registered by two methods, one by a Police Complaint and another by a Private Complaint. Normally it is seen that in the Private complaint, when a Magistrate takes cognizance, he issues a summons and the opposite party even before a case is made out is called an "Accused" and is made to stand alongwith other Hardcore Criminals who are undergoing trial for various heinous offences. Such a person as a matter of procedure, is arrested and is asked to take Bail or sent to Custody. When after detailed hearing, the Magistrate were to come to the conclusion that no charge is made out, the respectability of the person is tarnished and the damage has been done. It is seen that now a days it has become very common practice to file a private complaint and get summons issued to people to get publicity and unfortunately, in some cases, the respectable Magistrates have also become a victim to such publicities. The people at large are now threatened and are being blackmailed. If this is not curbed, it will cause infringement of the personal rights and liberties. While it is not the intention to save any individual innocent under the said guise should not be harassed. Hence it is just and necessary to amend and delete some of the sections in the Code of Criminal Procedure, 1973.

H. HANUMANTHAPPA

III

BILL No. XXX OF 1997

A Bill to provide for the establishment of the State of Uttarakhand by reorganisation of the existing State of Uttar Pradesh by carving out the districts of Almora, Nainital, Pauri Garhwal, Tehri, Dehradun, Uttarkashi, Chamoli and Pithoragarh and the Kumbha Mela area of Haridwar district therefrom and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

PART I

PRELIMINARY

1. (1) This Act may be called the State of Uttarakhand Act, 1997.
Short title and commencement.
(2) It shall come into force on such day as the Central Government may by notification in the Official Gazette appoint.
2. In this Act, unless the context otherwise requires—
Definitions.
(a) “appointed day” means the day which the Central Government, by notification in the Official Gazette, appoint;

- (b) "article" means the article of the Constitution of India;
- (c) "assembly constituency", "council constituency" and "parliamentary constituency" have the same meanings as in the Representation of People Act, 1950; 43 of 1950.
- (d) "existing State of Uttar Pradesh" means the State of Uttar Pradesh as existing immediately before the appointed day;
- (e) "law includes" any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having immediately before the appointed day, the force of law in the whole or in any part of the existing State of Uttar Pradesh;
- (f) "notified order" means an order published in the Official Gazette;
- (g) "prescribed" means prescribed by rules made under this Act;
- (h) "sitting member", in relation to either House of Parliament or of the Legislature of the existing State of Uttar Pradesh, means a person who immediately before the appointed day is a member of that House;
- (i) "State of Uttar Pradesh" means the State with the same name, comprising territories referred to in section 4;
- (j) "successor State", in relation to the existing State of Uttar Pradesh, means the State of Uttar Pradesh or Uttarakhand;
- (k) "treasury" includes a sub-treasury; and
- (l) any reference to a district, tehsil, or other territorial division of the existing State of Uttar Pradesh shall be construed as a reference to the area comprised within that territorial division on the first day of January, 1997.

PART II

REORGANISATION OF THE STATE OF UTTAR PRADESH

Formation of
the State of
Uttarakhand.

3. On and from the appointed day, there shall be formed a new State to be known as the State of Uttarakhand comprising the following territories of the existing State of Uttar Pradesh, namely:—

"Almora, Nainital, Pauri Garhwal, Tehri, Dehra Dun, Uttar Kashi, Charnoli and Pithoragarh districts and the Kumbha Mela Area of Haridwar district."

State of Uttar
Pradesh and
territorial divi-
sions thereof.

4. On and from the appointed day, the State of Uttar Pradesh shall comprise the territories of the existing State of Uttar Pradesh other than those mentioned in section 3.

Amendment of
the First Sche-
dule.

5. On and from the appointed day, in the First Schedule to the Constitution, under the heading "I. The States",—

(i) in entry 13, under the heading "Territories", the following shall be added at the end, namely:—

"and excluding the territories specified in section 3 of the State of Uttarakhand Act, 1997"; and

(ii) after the entry 25, the following entry shall be inserted, namely:—

"26. Uttarakhand: the territories specified in section 3 of the State of Uttarakhand Act, 1997".

PART III
REPRESENTATION IN THE LEGISLATURES

THE COUNCIL OF STATES

6. On and from the appointed day, in the Fourth Schedule to the Constitution, in the Table,—

Amendment of
the Fourth
Schedule to the
Constitution.

(a) entries 15 to 27 shall be re-numbered as entries 16 to 28 respectively;

(b) after entry 14, the following entry shall be inserted, namely:—

“15. Uttarakhand.....3”;

(c) in entry 16 as so re-numbered, for the figures “34”, the figures “31” shall be substituted.

7. (1) On and from the appointed day, the thirty-four sitting members of the Council of States representing the existing State of Uttar Pradesh shall be deemed to have been elected to fill the seats allotted to the States of Uttarakhand and Uttar Pradesh, as specified in the Fourth Schedule.

Allocation of
sitting mem-
bers.

(2) The terms of office of such sitting members shall remain unaltered.

8. (1) As soon as may be after the appointed day, election shall be held to fill the vacancies existing on the appointed day in the seats allotted to the State of Uttarakhand.

Filling up of
vacancies.

(2) The terms of office of such one of the three members so elected, as the Chairman of the Council of States may determine by drawing lot, shall expire on the 2nd day of April, 1998, the term of office of the second member shall expire on the 2nd day of April, 2000, and the term of office of the third member shall expire on the 2nd day of April, 2002.

THE HOUSE OF THE PEOPLE

9. Nothing in Part II shall be deemed to affect the Constitution or duration of the existing House of the people or the extent of the constituency of any sitting member of that House.

Provision as to
existing House.

THE LEGISLATIVE ASSEMBLY

10. (1) The number of seats as on the appointed day in the Legislative Assembly of the State of Uttarakhand shall be seventy-five.

Provision as to
Legislative
Assembly.

43 of 1950.

(2) In the Second Schedule to the Representation of People Act, 1950, under the heading I—States,

(i) entries 24 and 25 shall be re-numbered as entries 25 and 26, respectively; and

(ii) before entry 25 as so re-numbered, the following entry shall be inserted, namely:—

“24. Uttarakhand.....75.....

11. (1) Every sitting member of the Legislative Assembly of Uttar Pradesh elected to fill a seat in the Assembly from a constituency which on the appointed day stands allotted, with or without alteration of boundaries to the State of Uttarakhand, shall, on and from that day, ceases to be a member of the Legislative Assembly of Uttar Pradesh and shall be deemed to have been elected to fill a seat in the Legislative Assembly of Uttarakhand.

Allocation of
sitting mem-
bers.

(2) All other sitting members of the Legislative Assembly of Uttar Pradesh shall continue to be members of Legislative Assembly of the State.

(3) Notwithstanding anything contained in any other law for the time being in force, Legislative Assemblies of Uttarakhand and Uttar Pradesh shall be deemed to be duly constituted on the appointed day.

Duration of Legislative Assembly of the State of Uttarakhand.

12. The period of five years referred to in clause (1) of article 172 shall, in the case of Legislative Assembly of Uttarakhand be deemed to have commenced on the date on which the Legislative Assembly of Uttar Pradesh actually commenced.

Allocation of seats in the House of the People.

13. In the House of the People to be constituted after the commencement of this Act, there shall be allotted five seats to the State of Uttarakhand.

Allocation of seats in the Legislative Assembly.

14. The total number of Seats in the Legislative Assembly of Uttarakhand to be constituted at any time after the appointed day, to be filled by persons chosen by direct elections from territorial constituencies, shall be seventy-five of which ten seats will be reserved for Scheduled Castes and Scheduled Tribes.

PART IV

HIGH COURT

Common High Court for Uttar Pradesh and Uttarakhand.

15. (1) On and from the appointed day,—

(a) there shall be common High Court for the States of Uttar Pradesh and Uttarakhand, for the time being, to be called the High Court of Uttar Pradesh and Uttarakhand (hereinafter referred to as the Common High Court).

(b) The Judges of the High Court of Uttar Pradesh holding office immediately before that day shall, unless they have elected otherwise, become on that day the Judges of the Common High Court.

(2) The expenditure in respect of salaries and allowances of the Judges of the Common High Court shall be allocated amongst the States of Uttar Pradesh and Uttarakhand in such proportion as the President may, by order, determine.

Jurisdiction of the Common High Court.

16. On and from the appointed day, the common High Court shall have, in respect of the territories comprised in the States of Uttar Pradesh and Uttarakhand, all such jurisdiction, powers and authority as, under the law in force immediately before the appointed day, are exercisable in respect of those territories by the High Court of Uttar Pradesh.

Practice and Procedure in Common High Court.

17. Subject to the provisions of this Part, the law in force immediately before the appointed day with respect to practice and procedure in the existing High Court shall, with the necessary modifications, apply in relation to the Common High Court.

Custody of seal of Common High Court.

18. The Law in force immediately before the appointed day with respect to the custody of the seal of the High Court of Uttar Pradesh shall, with the necessary modifications, apply with respect to the custody of the seal of the Common High Court.

Form of writs and other processes.

19. The law in force immediately before the appointed day with respect to the form of writs and other processes used, issued or awarded by the High Court of Uttar Pradesh shall, with the necessary modifications, apply with respect to the form of writs and other processes used, issued or awarded by the Common High Court.

Powers of Judges.

20. The law in force immediately before the appointed day with respect to the powers of Chief Justice, single Judges and division courts of the High Court of Uttar Pradesh and with respect to all matters ancillary to the exercise of those powers shall, with necessary modifications, apply in relation to the Common High Court.

21. (1) The Principal seat of the Common High Court shall, unless otherwise determined by the President after consultation with the Chief Justice of that High Court and the Governors of Uttar Pradesh and Uttarakhand, be at the same place, at which the principal seat of the High Court of Uttar Pradesh is located immediately before the appointed day.

Principal seat
and other
places of
sitting of the
Common High
Court.

(2) The President may, after consultation with the Chief Justice of the Common High Court and the Governors of the States of Uttar Pradesh and Uttarakhand, by notified order, provide for the establishment of a permanent bench or benches of that High Court at one or more places within the territories to which the jurisdiction of the Common High Court extends, other than the principal seat of the High Court, and for any matters connected therewith.

(3) Notwithstanding anything contained in sub-section (2), the judges and division courts of the Common High Court may also sit at such other place or places in the States of Uttar Pradesh and Uttarakhand as the Chief Justice may, with the approval of the Governors of the States of Uttar Pradesh and Uttarakhand, appoint.

22. All proceedings pending in the High Court of Uttar Pradesh immediately before the appointed day shall, on that day, stand transferred to the Common High Court.

Transfer of
pending pro-
ceedings.

PART V

AUTHORISATION OF EXPENDITURE AND DISTRIBUTION OF REVENUES

23. The President shall, by order, determine the grant-in-aid of the revenues of the State of Uttarakhand and the share of that State in the Union duties of excise, estate duty and taxes on income and for that purpose amend thereby the relevant provisions of the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Union Duties of Excise (Distribution) Act, 1979, the Estate Duty (Distribution) Act, 1962 and the Constitution (Distribution of Revenues) order, 1985, in such manner as he thinks fit.

Distribution of
Revenues.

58 of 1957.
24 of 1979.
9 of 1962.

24. The Governor of the existing State of Uttar Pradesh may at any time, before the appointed day, authorise such expenditure from the Consolidated Fund of the State of Uttarakhand as he deems necessary for any period not exceeding beyond the 31st day of March, 1994, pending the sanction of such expenditure by the Legislative Assembly of the State of Uttarakhand:

Authorisation
of Expenditure
of the State of
Uttarakhand.

Provided that the Governor of Uttarakhand may, after the appointed day, authorise such further expenditure from the Consolidated Fund of the State of Uttarakhand as he deems necessary for the said period pending such sanction.

PART VI

APPORTIONMENT OF ASSETS AND LIABILITIES

25. The provisions of this part shall apply in relation to the apportionment of the assets and liabilities of the existing State of Uttar Pradesh immediately before the appointed day.

Application of
part.

26. (1) Subject to the other provisions of this Part, all land and all stores, articles and other goods belonging to the existing State of Uttar Pradesh shall,—

Land and
goods.

(a) if within that State, pass to the successor State in whose territories they are situated, or

(b) if outside that State, pass to the State of Uttar Pradesh:

Provided that where the Central Government is of the opinion that any goods or class of goods should be distributed between the successor States otherwise than according to the situation of the goods, the Central Government may issue such directions as it thinks fit for a just and equitable distribution of the goods and the goods shall pass to the successor states accordingly.

(2) The stores held for specific purposes, such as use or utilisation in particular institutions, workshops or undertakings or on particular works under construction, shall pass to the successor State in whose territories such institutions, workshops, undertakings or works are located.

(3) The stores relating to the Secretariat and offices of Heads of Departments having jurisdiction over the whole of the existing State of Uttar Pradesh shall be divided between the successor States in accordance with such directions as the Central Government may think fit to issue for a just and equitable distribution of such stores.

(4) Any other unissued stores of any class in the existing State of Uttar Pradesh shall be divided between the successor States in proportion to the total stores of that class purchased in the period of three years ending with the 31st day of March, 1994, the territories of the existing State of Uttar Pradesh included respectively in each of the successor States.

(5) In this section the expression "land" includes immovable property of every kind and any rights in or over such property, and the expression "goods" does not include coins, bank notes and currency notes.

Treasury and bank balances.

27. The total of the cash balances in all treasuries of the existing State of Uttar Pradesh and the credit balances of that State with the Reserve Bank of India, the State Bank of India or any other bank immediately before the appointed day shall be divided between the successor States according to the population ratio:

Provided that for the purposes of such division there shall be no transfer of cash balances from any treasury to any other treasury and the apportionment shall be effected by adjusting the credit balances of the successor States in the books of the Reserve Bank of India on the appointed day:

Provided further that if any successor State has no account with the Reserve Bank of India, the adjustment shall be made in such a manner as the Central Government may, by order, direct.

Arrears of taxes.

28. The right to recover arrears of any tax or duty on property, including arrears of land revenue shall belong to the successor State in whose territories the place of assessment of that tax or duty is included.

PART VII

PROVISIONS AS TO SERVICES

Provisions relating to All India Services.

29. (1) In this Section, the expression "State Cadre"—

(a) in relation to the Indian Administrative Service, has the meaning assigned to it in the Indian Administrative Service (Cadre) Rules, 1954, and

(b) in relation to the Indian Police Service, has the meaning assigned to it in the Indian Police Service (Cadre) Rules, 1954.

(2) In place of cadres of the Indian Administrative Service and the Indian Police Service for the existing State of Uttar Pradesh, these shall, on and from the appointed day, be two separate cadres, one for the State of Uttar Pradesh and the other for the State of Uttarakhand, in respect of each of these services.

(3) The initial strength and the composition of each of the State cadres for the States of Uttar Pradesh and Uttarakhand shall be such as the Central Government may, by order, determine before the appointed day.

(4) The members of each of the said services borne on the State cadre for the existing State of Uttar Pradesh immediately before the appointed day shall be allocated to the State cadres of the same service for each of the States of Uttar Pradesh and Uttarakhand in such manner and with effect from such date or dates as the Central Government may, by order specify.

(5) Nothing in this section shall be deemed to affect the operation, on or after the appointed day, of the All India Service Act, 1951 or the rules made thereunder in relation

to the State cadres of the said services referred to in sub-section (3) and in relation to the members of these services borne on the said cadres.

30. (1) Every person who immediately before the appointed day is serving in connection with the affairs of the existing State of Uttar Pradesh shall, on and from that day, provisionally continue to serve in connection with the affairs of the State of Uttar Pradesh unless he is required, by general or special order of the Central Government, to serve provisionally in connection with the affairs of any other successor State.

Provisions relating to other services.

(2) As soon as may be after the appointed day, the Central Government shall, by general or special order, determine the successor State to which every person referred to in sub-section (1) shall be finally allotted for service and the date with effect from which such allotment shall take effect or be deemed to have taken effect.

(3) Every person who is finally allotted under the provisions of sub-section (2) to a successor State shall, if he is not already serving therein, be made available for serving the successor State from such date as may be agreed upon between the Governments concerned or in default of such agreement, as may be determined by the Central Government.

(4) The Central Government may, by order, establish one or more advisory committees for the purpose of assisting it in regard to:

(a) the division and integration of the services among the successor States; and

(b) the ensuring of fair and equitable treatment to all persons affected by the provisions of this section and the proper consideration of any representations made by such persons.

(5) The foregoing provisions of this section shall not apply in relation to any person to whom the provisions of section 28 apply.

(6) Nothing in this section shall be deemed to affect on or after the appointed day, the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to the determination of the conditions of service of persons serving in connection with the affairs of the Union or any state:

Provided that the conditions of service applicable immediately before the appointed day to the case of any person referred to in sub-section (1) or sub-section (2) shall not be varied to his disadvantage except with the previous approval of the Central Government.

PART VIII

LEGAL AND MISCELLANEOUS PROVISIONS

31. For the purpose of facilitating the application in relation to the State of Uttar Pradesh or the State of Uttarakhand of any law made before the appointed day, the appropriate Government may, before the expiration of two years from that day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

Power to adapt Laws.

Explanation.—In this section, the expression "appropriate Government" means—

(a) in respect of any law relating to a matter enumerated in the Union List in the Seventh Schedule to the Constitution, the Central Government; and

(b) in respect of any other law, in its application to a State, the State Government.

32. (1) Notwithstanding that no provision or insufficient provision has been made under section 30 for the adaptation of a law made before the appointed day, any court, tribunal or authority required or empowered to enforce such law may, for the purpose of facilitating its application in relation to the State of Uttar Pradesh or the State of Uttarakhand

Power to construe laws.

construe the law in such manner, without affecting the substance, as may be necessary or proper in regard to the matter before the court, tribunal or authority, as the case may be.

(2) Any reference to the High Court of Uttar Pradesh in any law shall, unless the context otherwise requires, be construed, in and from the appointed day, as a reference to the High Court of Uttar Pradesh and Uttarakhand.

Power to name authorities etc. for exercising statutory functions.

33. The Central Government, in respect of the Government of the State of Uttarakhand as regards the territories thereof may, by notification in the Official Gazette, specify the authority, officer or person who, on and from the appointed day, shall be competent to exercise such functions exercisable under any law in force on that day as may be mentioned in that notification and such law shall have effect accordingly.

Legal proceedings.

34. Where immediately before the appointed day, the existing State of Uttar Pradesh is a party to any legal proceedings with respect to any property, rights or liabilities subject to apportionment under this Act shall be deemed to be substituted for the existing State of Uttar Pradesh or added as a party to those proceedings and the proceedings may continue accordingly.

Transfer of pending proceedings.

35. (1) Every proceeding pending immediately before the appointed day before a court (other than a High Court), tribunal, authority or officer in any area which on that day falls within a successor State shall, if it is a proceeding relating exclusively to the territories which as from that day are the territories of another successor State stand transferred to the corresponding court, tribunal, authority or officer in that other State as the case may be.

(2) If any question arises as to whether any proceedings should stand transferred under sub-section (1), it shall be referred to the High Court having jurisdiction in respect of the area in which the court, tribunal, authority or officer before which or whom such proceedings are pending on the appointed day, is functioning and the decision of the High Court shall be final.

(3) In this section—

(a) "proceeding" includes any suit, case or appeal, and

(b) "corresponding court, tribunal, authority or officer" in a state, means—

(i) the court, tribunal, authority or officer in that state in which or before whom, the proceeding would have lain if it had been instituted after the appointed day; or

(ii) in case of doubt, such court, tribunal, authority or officer in that State, as may be determined after the appointed day by the Government of the existing State of Uttar Pradesh, to be the corresponding court, tribunal, authority or officer.

Power to make rules.

36. The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The people of Uttarakhand consisting of eight hill districts of Uttar Pradesh and Khumbha Mela area of Haridwar district have made significant contribution in the freedom struggle of India and they are contributing a lot in building the modern India by serving the Armed Forces, Police and Civil Administration. In fact many of these people are holding very high positions in the Union and State Governments. But unfortunately even after all these Uttarakhand remains a backward region. Its economy is called Money Order economy and has very little to boast of. As such the specific social and economic problems of the people of this region require special treatment in democratic and independent India. The problems of the people of this region have been accumulating and the people continue to suffer. This part of the country has been neglected by successive Governments.

Whereas the changes in the administrative set up under the Constitution were found necessary for the sustained growth and development of the people of Himachal Pradesh and Arunachal Pradesh besides other areas in North-Eastern India, this hilly part of the country has always been overlooked though it has its own strategic importance.

In view of this, the Uttar Pradesh State Legislature also felt necessary to adopt a resolution to carve out a separate State of Uttarakhand to end the neglect of the people of this region.

Hence, it is being felt that the formation of a separate hill State of Uttarakhand is essential to ensure a balanced development of this region so that the rich intellectual potential of the people of this region and even richer material resources available with unique advantage of environment are duly exploited by an appropriate democratic set-up to unleash the creative energies of the people of Uttarakhand. It is, therefore, necessary to establish the State of Uttarakhand with its legislature, executive and the judiciary like other Indian States, in accordance with the Constitution of India.

This Bill seeks to achieve the above objects.

SURESH PACHOURI

FINANCIAL MEMORANDUM

As a State, Uttarakhand will be entitled to a share in the income tax and additional excise duty of the Central Government. There will be some revenue receipts from the areas covered under the new State of Uttarakhand. However, there may be a gap between the revenue receipts and expenditure. The Central Government will have to provide such quantum of grants-in-aid to the new State as may be necessary by suitably amending the provisions of the Constitution (Distribution of Revenue) Order, 1985, in exercise of the powers given by clause 23 of the Bill. No exact estimate can be given about the amount likely to be given to the State as grants-in-aid but it is estimated that it may involve expenditure to the tune of rupees two hundred crores.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 23 of the Bill empowers the President to determine by order the grant-in-aid to the new State and its share in Central taxes and amend for that purpose the relevant provisions of the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Union Duties of Excise (Distribution) Act, 1979, the Estate Duty (Distribution) Act, 1962, and the Constitution (Distribution of Revenue) Order, 1985.

Clause 36 of the Bill empowers the Central Government to make rules to give effect to the provisions of the Bill. The rules, if any, will be confined to matters of procedure and other matters of minor detail relating to the enforcement of the various provisions included in the Bill.

The rules to be made will relate to matters of details only and as such the delegation of legislative power is of a normal character.

IV

BILL NO. XXVIII OF 1997

A Bill to provide for the prevention of environmental pollution by wine, beer, spirituous liquor and alcohol producing distilleries which discharge toxic fumes in the air and dangerous chemicals in the water and for matters connected therewith.

Be it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Environment Pollution by Distilleries Act, 1997. Short title and extent.

(2) It extends to the whole of India.

2. In this Act, unless the context otherwise requires,— Definitions.

(a) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

(b) "distillery" means unit or establishment engaged in producing wine, beer spirituous preparation or alcohol either for consuming purposes or industrial purposes;

(c) "prescribed" means prescribed by rules made under this Act;

(d) words and expressions used but not defined in this Act and defined in the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986 shall have the same meaning as assigned to them in these Act.

6 of 1974.
14 of 1981.
29 of 1986.

Appropriate Government to prescribe norms for the distilleries.

3. The Appropriate Government shall, by notification in the Official Gazette, prescribe the norms for the working and production by every distillery functioning within its territorial jurisdiction within a period of six months after the commencement of this Act.

Distilleries not to discharge chemical fumes in the air and affluents in the running water.

4. (1) There shall be no discharge of Chemical fumes in the air and waste chemical affluents in the running water by the distilleries:

Provided that the appropriate Government may, by notification in the Official Gazette, prescribe, the level to which and the manner in which the fumes or affluents may be discharged by the distilleries during their processing period.

(2) whoever contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act.

Distilleries to instal anti-pollution devices.

5. Every distillery shall, within a period of one year, from the date of commencement of this Act, instal such anti-pollution devices at the conspicuous places in its premises and in such manner as may be prescribed.

6. (1) Where a distillery contravenes the provisions of Section 4, every Director, Manager, Secretary, Agent or any other Officer of person concerned with the management thereto shall be punishable with imprisonment which may extend up to five years or with fine which may extend up to one lakh rupees or both.

(2) If there is a contravention of the provisions of Section 5 the punishment shall be imprisonment which may extend up to seven years or with fine which may extend up to one lakh and ten thousand rupees or with both.

Overriding effect.

7. The provisions of this Act and any rules made thereunder shall apply notwithstanding anything inconsistent contained in any other law for the time being in force.

Power to make rules.

8. The Central Government, may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

There are a large number of distilleries through out the country producing liquor for human consumption and alcohol and other spirituous preparations for industrial use. These distilleries use various chemicals and other raw materials for manufacturing their products. In the process of manufacturing they discharge toxic fumes in the air which pollute the air making the environment nearly poisonous. The people who live nearby such distilleries develop various respiratory diseases including the dreaded cancer. Their life becomes a hell because they have to live under unbearable odour of the toxic fumes. Similarly these units also discharge untreated chemical affluents in the running water of drains which ultimately go into the nearby rivers and pollute these rivers endangering the species in such rivers particularly the fish. It is, therefore, necessary to prevent these distilleries from polluting the environment.

Accordingly, it has been suggested in this Bill that the Central and State Governments will fix norms for the working of these distilleries and also fix the level of toxic fumes and chemical affluents which may be discharged in the air and water by them. The Bill provides for installation of anti-pollution system by the distilleries within the stipulated period. Distilleries which violate these provisions must get exemplary punishment.

Hence this Bill.

SURESH PACHOURI.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of a normal character.

V

BILL No. XXIX OF 1997

THE BANKING COMPANIES (AUDIT OF ACCOUNTS BY THE COMPTROLLER AND
AUDITOR-GENERAL OF INDIA) BILL, 1997

A Bill to provide for the auditing of accounts of banking companies by the Comptroller and Auditor-General of India and for matters connected therewith.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

Short title. 1. This Act may be called the Banking Companies (Audit of Accounts by the Comptroller and Auditor-General of India) Act, 1997.

Definitions. 2. In this Act unless the context otherwise requires,—

(a) "banking company" means a company within the meaning of section 5 of the Banking Regulation Act, 1949;

10 of 1949.

(b) "Comptroller and Auditor-General of India" means the Comptroller and Auditor-General of India appointed under article 148 of the Constitution of India;

(c) "prescribed" means prescribed by rules made under this Act;

10 of 1949.
5 of 1970.

(d) words and expressions used but not defined in this Act and defined in the Banking Regulation Act, 1949 and the Banking Companies (Acquisition and transfer of Undertakings) Act, 1970 shall have the meanings respectively assigned to them in these Acts.

3. Notwithstanding anything contained in any other law for the time being in force, it shall be the duty of the Comptroller and Auditor-General of India to audit the accounts of the banking companies in such manner as may be prescribed.

The
Comptroller
and Auditor-
General of
India to audit
accounts of
the banking
companies.

4. Notwithstanding anything contained in any other law for the time being in force, every banking company shall furnish its annual accounts to the Comptroller and Auditor-General of India for the purposes of auditing in such manner and in such form as may be prescribed.

Banking
Companies to
furnish
accounts for
auditing.

5. The audit reports of the Comptroller and Auditor-General of India relating to the accounts of the banking companies shall be submitted to the President who shall cause them to be laid before each House of Parliament.

Audit Report.

6. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Overriding
effect.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to
make rules.

STATEMENT OF OBJECTS AND REASONS

People from all sections of the society deposit their hard earned money in banks in various accounts, schemes etc. in the hope that the money will remain safe with the banks and they will get good interest also on their money. But there is no centralised authority for the proper auditing of the accounts of the banking companies. As such every banking company has its own system of auditing its accounts which is not effective and at time leads to manipulation and corruption. Recent security scam which rocked the nation wherein banking companies were defrauded of thousands of crores of rupees by some share brokers and others with the connivance of the insiders made the mockery of the self auditing system in banks. All this can be prevented if the auditing of banking companies is handed over to the Constitutional authority of the Comptroller and Auditor-General of India in view of the powers given under article 149 of the Constitution of India to the Parliament in this regard.

Hence this Bill.

SURESH PACHOURI.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that Comptroller and Auditor-General of India shall audit the accounts of all the banking companies. As a result of it more manpower has to be provided to the Comptroller and Auditor-General to cope with this extra work. Though it is not possible to precisely estimate the expenditure but it is estimated that a recurring expenditure of rupees five crores per annum will be involved from the Consolidated Fund of India.

Non recurring expenditure of rupees fifty lakhs would also be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill gives power to the Central Government to make rules for the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

VI

BILL NO. XXXV OF 1997

A Bill to provide for the compulsory supply of electricity to the agricultural sector and rural areas in order to boost the agricultural production and promotion of village industries so as to increase the foodgrain stocks and encourage agricultural exports and employment generation in rural areas and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:

Short title
and extent.

1. (1) This Act may be called the Electricity (Priority Supply to Rural Areas and Agriculture Sector) Act, 1997.

(2) It extends to the whole of India.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) "agriculture" includes poultry, dairy farming, orchards, rearing of animals and farming;

(c) "prescribed" means prescribed by rules made under this Act.

3. (1) Notwithstanding anything contained in any other law for the time being in force the appropriate Government shall ensure that seventy percent of the total electricity generated within its territorial jurisdiction including the electricity generated by foreign companies shall be supplied to the agriculture sector, rural households, village and cottage industries.

Supply of electricity to agriculture and village household and cottage industries.

(2) The appropriate Government shall, within its territorial jurisdiction,—

(a) allocate the quantum of electricity to the villages in such manner as may be prescribed;

(b) provide at least single point electric connection to every house in each village in such manner as may be prescribed; and

(c) supply electricity free of cost to every house belonging to Scheduled Castes, Scheduled Tribes and people living below poverty line.

4. The provisions of this Act and of any rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any other instrument having effect by virtue of any law other than this Act, but save as aforesaid, the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to supply of electricity within the country.

Overriding effect of the Act.

5. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

It is said that India lives in villages and it is true as more than seventy percent of our population lives in villages and earn its livelihood through agriculture, horticulture, rearing of animals, poultry and other village industries of various kinds. But unfortunately the major part of rural India lives in dark as most of the villages are yet to be electrified. Agriculture too is mainly dependent on monsoon. Even if there are tubewells, they do not function in the absence of regular power supply. In fact there is little power supply to rural areas. Major chunk of power generated in the country is consumed by cities. In fact thirty percent of the population living in cities is consuming almost the entire power generated in the country. This has resulted in the backwardness of the rural areas.

For desired results and to achieve progress, major portion of generated power has to be diverted to rural parts of the country that too according to the ratio of the population. Since seventy percent of the population is in villages and engaged in agriculture, seventy percent of the power should be supplied to the villages. This step will not only bring brightness in the villages but will also boost agricultural production which may enable us to export the foodgrains. If power is given to village industries more employment opportunities will be generated in villages which will retard the mad rush towards the cities. In fact this step will revolutionise our society.

Hence this Bill.

SAROJ KHAPARDE.

FINANCIAL MEMORANDUM

Sub-clause (2) of clause 3 of the Bill provides that the appropriate Government shall give atleast single point electric connection to every house in each village and supply electricity free of cost to every household belonging to Scheduled Castes, Scheduled Tribes and to the people living below poverty line. The Bill, if enacted and brought into force, will involve expenditure from the Consolidated fund of India. It is estimated that a sum of rupees five hundred crores may involve as recurring expenditure per annum.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

VII

BILL No. XXXI OF 1997

A Bill to secure rapid, accelerated and overall development of poverty stricken and backward regions of the country which continue to suffer and languish in the matter of development in the economic, social, educational and industrial fields, by establishing an autonomous Central Authority for assured and speedy development of such regions in a planned manner and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Poverty Stricken and Backward Regions (Development) Act, 1997.

Definitions.

2. In this Act, unless the context otherwise requires:—

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government.

(b) "Authority" means the Poverty Stricken and Backward Regions Development Authority established under section 4;

(c) "poverty stricken and backward regions" means the economically, socially, educationaly and industrially under developed areas and declared so by the appropriate Government under Section 3;

(d) "prescribed" means prescribed by rules made under this Act.

3. The appropriate Government shall, by notification in the Official Gazette, declare such regions, within its jurisdiction, as poverty stricken and backward regions which in its opinion require priority attention to bring them at par with the rest of the regions of the country.

4.(1) The Central Government shall, by notification in the Official Gazette, establish an Authority to be known as the Poverty Stricken and Backward Regions Development Authority.

(2) The Authority shall be a body corporate, by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The Headquarter of the Authority shall be at Nagpur in the State of Maharashtra and the Authority may, with the consent of the appropriate Government, establish offices at other places in the country.

5. The Authority shall consist of the following members:—

(a) the Prime Minister who shall be the ex-officio Chairman of the Authority;

(b) the Deputy Chairman of the Planning Commission who shall be the Vice-Chairman of the Authority;

(c) Five members of Parliament who shall be from the backward regions of the country of whom three shall be from the Lok Sabha and two from the Rajya Sabha to be nominated by the Presiding officers of the respective Houses;

(d) Ten members to be appointed by the Central Government representing the Ministries/Departments of Planning Commission, Agriculture, Rural Areas, Industry, Finance, Railways, Surface Transport, Education, Water Resources and Power of the Union Government;

(e) not more than six Members to be appointed by the Central Government by rotation in the alphabetical order to represent the Governments of the States having the poverty stricken backward regions.

6. (1) The Authority shall have a Secretariat consisting of such officers, employees and establishment as may be prescribed.

(2) The conditions of service, emoluments and other perks of the officers and employees shall be such as may be determined from time to time for the efficient functioning of the Secretariat of the Authority.

7. The Central Government shall provide, from time to time, after due appropriation made by Parliament by law in this behalf, adequate funds for the developmental works to be undertaken by the Authority and for its administrative expenses.

8. (1) The Authority shall take such special steps in order to ensure rapid and accelerated development of poverty stricken and backward regions of the country, as it may deem necessary and expedient to do so for the overall development of such regions.

(2) Without prejudice to the generality of the foregoing provision, the Authority shall initiate measures for the rapid development, particularly of industrial growth centres with immunity of investments, railways, roads, communication network, agriculture, irrigation facilities by constructing wells, bore wells, canals etc., drinking water facilities, hydel, solar, wind and thermal power, forests, livestock, orchards, poultry, co-operatives of milk, cottage industries, health services, family welfare, education, network of public distribution system, vocational training, tourism and such other activities as the Authority may deem necessary for the overall development of the poverty stricken and backward regions.

9. The Authority shall submit an annual report, in such form and in such manner, as may be prescribed, of its activities of development in the poverty stricken and backward

Declaration of Poverty Stricken and backward regions.

Establishment of the Poverty Stricken and Backward Regions Development Authority.

Composition of the Authority.

Secretariat of the Authority.

Funds of the Authority.

Authority to ensure overall development of Poverty Stricken and Backward Regions.

Annual Report of the Authority.

regions of the country to the President of India who shall cause the report to be laid before both the Houses of Parliament as soon as it is received.

Power to remove difficulty. 10. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty.

Power to make rules. 11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Soon we are going to celebrate the golden jubilee of our independence and we must rejoice the occasion but unfortunately, even after five decades of independence, the regional imbalance in our country is still there. The economic disparity among various regions in the country has not only persisted but has also increased. This disparity has resulted in extreme poverty, hunger and backwardness. Even the Constitutional obligations set forth by the founding fathers of the Constitution are yet to be fulfilled. Article 371 of the Constitution provides for special provisions for the development of Maharashtra and Gujarat but the Vidarbha, Marathwada, Saurashtra and Kutch regions of these States are still most backward. Non development of the Vidarbha region has resulted in the demand for a separate state which shows the frustration of the people of the region.

Development of such regions should be our prime concern. Special steps should be taken at the National and state levels to secure rapid and accelerated development of the poverty stricken and backward regions in the areas of education, economy, agriculture and other fields to bring them at par with other developed regions of the country. This may be achieved by establishing an autonomous Authority for the purpose.

Hence this Bill.

SAROJ KHAPARDE.

FINANCIAL MEMORANDUM

Sub-clause (1) of clause 4 of the Bill provides for the establishment of the Poverty Stricken and Backward Regions Development Authority and sub-clause (1) of clause 6 of its secretariat which shall meet all its expenditure out of the fund constituted under clause 7 of the Bill. The Bill if enacted and brought into operation will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one thousand crores may involve as recurring expenditure per annum.

A sum of rupees one hundred crores may also involve as non recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

VIII

BILL NO. XXXIII OF 1997

A Bill further to amend the Press and Registration of Books Act, 1867.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Press and Registration of Books (Amendment) Act, 1997. Short title.

2. After section 3 of the Press and Registration of Books Act, 1867, the following section shall be inserted, namely:—

“3A. Notwithstanding anything contained in this Act or in any other law for the time being in force no person, who is not a citizen of India, shall own, publish, print or edit or in any way associate with the ownership, publishing, printing or editing of any paper, newspaper or a book in India.”

Insertion of
new section
3A.

Ownership,
publishing,
etc. of
newspapers
and books by
Indian
citizens only.

STATEMENT OF OBJECTS AND REASONS

Recently it has been proposed that foreign media may be allowed to have access to the Indian market. The proposal, if accepted, will adversely affect the economic viability of Indian newspapers and Indian news agencies. It also constitutes a grave danger to the independence, sovereignty and integrity of India as the foreign media will have no commitment to our Constitution.

Besides, entry of foreign media will encourage invasion of Western culture and Western values. It will destroy our traditions and ethos. Moreover foreign media will try to shape public opinion and policies to suit the national interest of their country.

U.S.A. and France have not allowed foreign media to enter into domestic market. There is no reason why India should allow entry of foreign media in Indian market.

The Press Council of India has also opposed entry of foreign media in the Indian market hence it is necessary to ban the entry of foreign media in the Indian market.

Hence this Bill.

V. N. GADGIL.

IX

BILL NO. XXXIV OF 1997

A Bill to provide for the compulsory teaching of Sanskrit language in schools.

Be it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------|
| 1. (1) This Act may be called the Compulsory Teaching of Sanskrit Language in Schools Act, 1997. | Short title and commencement. |
| (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. | Compulsory teaching of Sanskrit language in Schools. |
| 2. The Sanskrit language shall be taught as a compulsory subject in all schools from such class onwards as may be determined by the concerned State Government or the Union territory administration. | Central Government and State Government to share the expenditure. |
| 3. The total expenditure to be incurred on the implementation of the provisions of this Act shall be shared equally by the Central Government and the respective State Governments. | Power to make rules. |
| 4. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act. | |

STATEMENT OF OBJECTS AND REASONS

Sanskrit language reflects the soul of India. It is sad that a language which is the vehicle of Indian thoughts of millions, contains literature of great eminence and a language which is finest expression of Indian minds has suffered utter neglect. Ignorance of Sanskrit has developed in younger generations alienation from our cultural traditions.

The learning of Sanskrit helps in character building. It leads to grammatical purity in other languages. It helps in building vocabulary and facilitates learning the art of eloquence. Sanskrit is essential for understanding of Ayurveda which has now been adopted in many countries in Europe, U.S.A. and Australia. In other words learning of Sanskrit develops the personality of an individual.

It has, therefore, become necessary that more efforts should be made to make the younger generation aware of the importance of Sanskrit in the life of India. Teaching of Sanskrit in Schools will enable the younger generation to enrich their personality and the noble traditions and thoughts of Indians.

Hence this Bill.

V. N. GADGIL.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the compulsory teaching of Sanskrit language in Schools. Clause 3 provides that the total expenditure incurred on the implementation of the provisions of this Bill shall be borne by the Central Government and State Government equally. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. Although, the exact amount of expenditure cannot be estimated at this stage, a recurring expenditure of rupees ten crore per annum is likely to be involved.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill empowers the Central Government to frame rules for carrying out the purposes of the Bill. As the rules relate to matters of detail only, the delegation of legislative power is of a normal character.

X

Bill No. XXXVI of 1997

A Bill to provide for the establishment of a permanent Bench of the High Court of Andhra Pradesh at Visakhapatnam.

Be it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the High Court of Andhra Pradesh (Establishment of a Permanent Bench at Visakhapatnam) Act, 1997.

**Establishment
of a Perma-
nent Bench
of High Court
of Andhra
Pradesh at
Visakhapatnam.**

2. There shall be established a permanent Bench of the High Court of Andhra Pradesh at Visakhapatnam and such judges of the High Court of Andhra Pradesh being not less than five in number, as the Chief Justice of that High Court may from time to time nominate, shall sit at Visakhapatnam in order to exercise the jurisdiction and power for the time being vested in that High Court in respect of cases arising in the districts areas of Visakhapatnam, Vizianagram, Srikakulam, Bobbili, Rajahmundry, Kakinada, Nellore, Narsaur and Amlapuram.

STATEMENT OF OBJECTS AND REASONS

Andhra Pradesh is a big State. The Coastal regions are far away from Hyderabad. The people are facing hardship to file cases in the High Court located at Hyderabad. There has been a persistent demand for setting up a permanent bench of the High Court of Andhra Pradesh at Visakhapatnam, the densely populated port city with many industrial set ups. It is time consuming and costly affairs for coastal people to travel long distances in connection with their cases at Hyderabad. In the interest of speedy justice and convenience of the litigant public, it is necessary to establish a permanent Bench of the High Court of Andhra Pradesh at Visakhapatnam.

Hence this Bill.

Y. LAKSHMI PRASAD.

XI

BILL NO. XXXII OF 1997

A Bill to provide for the administration of the Council of States.

Be it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Council of States (Administration) Act, 1997.

Definitions.

2. In this Act unless the context otherwise requires,—

(a) "Chairman" means Chairman of the Council of States;

(b) "Commission" means the Council of States Commission constituted under section 3 of this Act;

(c) "Deputy Chairman" means the Deputy Chairman of the Council of States;

(d) "House" means the Council of States;

(e) "Leader of the House" means the Leader of the Council of States or a member of the Council of Ministers, who, being a member of the House is nominated by the Leader of the House for purposes of this Act;

(f) "Leader of the Opposition" means a member of the House who is recognised so by the Chairman as such or if there is no such leader, the leader of the party in the Opposition having the largest number of members in the House;

(g) "Secretary-General" Means the Secretary-General of the Council of States.

3. (1) There shall be constituted a Commission by the House on a motion moved by the Leader of the House to perform the functions conferred on it under this Act.

(2) The Commission shall consist of the following members:—

Constitution
and Composi-
tion of the
Commission.

(a) the Chairman;

(b) the Deputy Chairman;

(c) the Leader of the House or his nominee;

(d) the Leader of the Opposition or his nominee;

(e) three members of the House to be elected by the House by the system of proportional representation by means of a single transferable vote.

4. (1) The Chairman shall be the *ex-officio* Chairman of the Commission.

Chairman of the
Commission.

(2) While the office of the Chairman is vacant, the Deputy Chairman shall function as the Chairman of the Commission and, if for any reason, the Chairman is unable to act as the Chairman of the Commission, the Deputy Chairman shall act as the Chairman of the Commission.

5. (1) The Chairman and the Leader of the House shall continue to be the members of the Commission until immediately before the assumption of the office by the respective successors of the Chairman and the Leader of the House.

Terms of office
of the mem-
bers.

(2) A member of the Commission other than the Chairman and the Leader of the House shall cease to be a member of the Commission if—

(a) he ceases to be a member of the House; or

(b) another person is nominated or appointed in the post by virtue of which he became the member of the Commission.

6. (1) There shall be a Secretary General who shall be appointed by the President of India on the recommendation of the Commission.

Appointment &
Removal of
Secretary-
General.

(2) The Secretary-General shall be appointed from amongst the persons who have distinguished themselves and made their mark in the service of Parliament in various capacities in the secretariat for not less than 20 years.

(3) The Secretary-General shall be the head of the secretariat of the Council of States.

(4) The office of the Secretary-General shall become vacant,

(a) upon his death;

(b) on his resignation in writing addressed to the President;

(c) on his attaining the age of superannuation as may be fixed by the Commission;

(d) on his removal by the President upon an address by the Council of States in a like manner as the Judge of the Supreme Court.

7. Except as provided in section 6 with regard to the appointment of the Secretary-General, the Commission shall appoint all staff in the secretariat and over and above the functions provided elsewhere in this Act, the functions of the Commission shall be—

Functions of
the Commis-
sion.

- (a) to frame rules regulating the recruitment, appointment, promotion and other service conditions of the Secretary-General and other officers and staff of the secretariat;
- (b) to appoint the officers and staff on deputation from other services such as the Judiciary, C&AG, and State Legislatures;
- (c) to consider and decide the appeal against the orders of the Chairman or Secretary-General as the case may be submitted by the officers and staff of the secretariat;
- (d) to determine the number of staff of the secretariat, their scales of pay, and remuneration;
- (e) to ensure that the classification, grading, salaries, allowances, and other conditions of service, including pension and other benefits of the personnel are kept in conformity with the personnel in other comparable services in the Government of India and also consistent with the service requirements of the House;
- (f) to prepare an estimate for each financial year of the expenses of the services of the House and of any other expenses incurred for the service of the House and lay them before the House;
- (g) to appoint a member of the staff as a "Finance Officer" responsible for accounting the sums paid out of the money provided by Parliament for the service of the House; and
- (h) to exercise all powers necessary to implement the provisions of Article 98 (1) towards the constitution of a separate, independent and autonomous secretariat of the House.

Power to make rules.

8. (1) The Commission may make rules to regulate its procedure and conduct of its business.
- (2) The Commission may, by notification in the Official Gazette, make rules to regulate recruitment and conditions of service of the staff of the secretariat.
- (3) Every rule made under this Act shall as soon as may be after it is made be laid before the House while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session, immediately following the session or the successive sessions aforesaid the House agrees in making any modification in the rule or that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be.
- (4) Any notice of amendment to such rules given by a member shall stand referred to the Commission which shall consider it and make such changes in the rules as the Commission may consider fit and the final rule made by the Commission after taking into consideration the amendments suggested by the member shall be laid on the table of the House and, after, the House has so agreed on a motion made by a member of the Commission, the rule or amendment to a rule, as the case may be, shall be enforced by the Commission by notification in the Official Gazette.

Delegation of the Commission's Functions.

9. (1) The Commission may delegate any of its functions to the Chairman or the Secretary-General.
- (2) Anything done by or in relation to a person to whom functions are delegated under sub-section (1) shall have same effect as if done by or in relation to the Commission.
- (3) Any delegation made under this section or any amendment or revocation of such a delegation shall be mentioned in the annual report of the Commission.

(4) Notwithstanding any delegation made under this section, the Commission shall retain the ultimate responsibility for considering any representation made in relation to matters affecting the interests in connection with the employment of staff in the service of the House by staff associations which are recognised by the Commission in respect of such staff and for the conduct of consultations and negotiations about such matters with those staff associations.

10. No act or proceeding of the Commission shall be questioned or shall be invalid on the ground merely of the existence of any vacancy.

Vacancy, etc.,
not to invalidate
the proceedings
of the Commis-
sion.

11. The Commission shall, as soon as possible, after the end of each financial year prepare and present to the House its annual report giving a full account of its activities during the preceding financial year.

Annual reports.

12. All persons employed in the service of the House immediately before the commencement of this Act, shall be treated for all purposes as if their appointment had been made by the Commission unless the Commission decides otherwise.

Transitional
Provisions.

13. All rules, regulations and orders made or deemed to have been made under Article 98 of the Constitution being in force immediately before the commencement of this Act, shall be deemed to have been made by the Commission and shall continue to be valid and operative unless modified or revoked by the Commission, so however that anything contained therein being inconsistent with any provision of this Act, shall be of no effect and be void to the extent of such inconsistency.

Saving.

STATEMENT OF OBJECTS AND REASONS

The concept of an independent secretariat of Parliament is an essential adjunct of Parliamentary democracy. The significance of this conceptualisation of a secretariat independent of the executive was fully realised in the 1920s when the then Central Legislative Assembly passed unanimously a resolution moved by Pandit Motilal Nehru and seconded by Lala Lajpat Rai. Later, President Vithalbhai Patel ceaselessly endeavoured in this direction.

The independent position of the secretariats of the Houses of Parliament was recognised by the makers of our Constitution when they considered it necessary to incorporate a separate and exclusive article (Art. 98) in the Constitution. This article envisages enactment by Parliament of a law to regulate the requirement and conditions of service of persons appointed to the secretariat staff of the House. The enactment of such a legislation is long overdue.

The unique position of the Rajya Sabha Secretariat demanding, as it does, a special sense of dedication and impartiality in the discharge of their duties, requires a broad-based institutional arrangement representing the House to be statutorily made available to assist the Chairman in watching and safeguarding the interests of the secretariat staff in the service of the House and its members. This institutional arrangement is sought to be made by providing a House Commission. The Bill provides for the establishment of such Commission and matters connected therewith.

SOM PAL.

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to set up a Council of States Commission. Its members, other than the *ex-officio* Chairman of the Council of States, who is the Vice-President of India, are the members of the House who would be discharging their duties in relation to the Commission as members. The expenditure towards the payment of their TA/DA, if any, would be a part of the normal expenditure of the House. The increase in the expenditure, if any, as a result of setting up of the Council of States Commission would be a marginal one and that would not be possible to be quantified in specific terms at this stage.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill seeks to confer the rule-making power on the Commission. The matters in respect of which such rules may be made are matters of procedure and administrative details. The delegation of legislative power is, therefore, of a normal character.

XII**BILL No. XXXVII OF 1997**

A Bill to provide for the administration of the House of the People.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the House of the People (Administration) Act, 1997.

Definitions.

2. In this Act unless the context otherwise requires,—

(a) "Commission" means the House of the People Commission constituted under Section 3 of this Act;

(b) "Deputy Speaker" means the Deputy Speaker of the House of the people;

(c) "House" means House of the People;

(d) "Leader of the House" means the Prime Minister or a member of the Council of Ministers, who, being a member of the House is nominated by the Prime Minister for purposes of this Act;

(e) "Leader of the Opposition" means a member of the House who is recognised so by the Speaker as such and if there is no such leader, then the leader of the party in the Opposition having the largest number of members in the House;

Constitution & Composition of the Commission.

(f) "Secretary-General" means the Secretary-General of the House of the People;

(g) "Speaker" means Speaker of the House of the People.

3. (1) There shall be constituted a Commission by the House on a motion moved by the Leader of the House to perform the functions conferred on it under this Act.

(2) The Commission shall consist of the following members:—

(a) The Speaker;

(b) The Deputy Speaker;

(c) The Leader of the House or his nominee;

(d) The Leader of the Opposition or his nominee;

(e) Three members of the House to be elected by the House by the system of proportional representation by means of a single transferable vote.

4. (1) The Speaker shall be the *ex-officio* Chairman of the Commission.

(2) While the office of the Speaker is vacant, the Deputy Speaker shall function as the Chairman of the Commission and, if for any reason, the Speaker is unable to act as the Chairman of the Commission, the Deputy Speaker shall act as the Chairman of the Commission.

Chairman of the Commission.

Terms of office of the members.

5. (1) The Speaker and the Leader of the House shall continue to be the members of the Commission until immediately before the assumption of the office by the respective successors of the Speaker and the Leader of the House.

(2) A member of the Commission other than the Speaker and the Leader of the House shall cease to be a member of the Commission if—

(a) he ceases to be a member of the House; or

(b) another person is nominated or appointed in the post by virtue of which he became the member of the Commission.

Appointment & Removal of Secretary-General.

6. (1) There shall be a Secretary-General who shall be appointed by the President of India on the recommendation of the Commission.

(2) The Secretary-General shall be appointed from amongst the persons who have distinguished themselves and made their mark in the service of Parliament in various capacities in the secretariat for not less than 20 years.

(3) The Secretary-General shall be the head of the secretariat of the House of People.

(4) The office of the Secretary-General shall become vacant—

(a) upon his death;

(b) on his resignation in writing addressed to the President;

(c) on his attaining the age of superannuation as may be fixed by the Commission;

(d) on his removal by the President upon an address of House of People in a like manner as the Judge of the Supreme Court.

Functions of the Commission.

7. Except as provided in Section 6 with regard to the appointment of the Secretary-General the Commission shall appoint all staff in the secretariat and over and above the functions provided elsewhere in this Act, the functions of the Commission shall include the following:—

(a). to frame rules regulating the recruitment, appointment, promotions, and other service conditions of the Secretary-General and other officers and staff of the secretariat;

- (b) to the appoint officers and staff on deputation from other services such as the Judiciary, C & AG, and State Legislatures;
- (c) to consider and decide the appeal against the orders of the speaker or, Secretary-General as the case may be, submitted by the officers and staff of the secretariat;
- (d) to determine the number of staff of the secretariat, their scales of pay, and remuneration;
- (e) to ensure that the classification, grading salaries, allowances, and other conditions of service, including pension and other benefits of the personnel are kept in conformity with the personnel in other comparable services in the Government of India and also consistent with the service requirements of the House;
- (f) to prepare an estimate for each financial year of the expenses of the services of the House and of any other expenses incurred for the service of the House and lay them before the House;
- (g) to appoint a member of the staff as a "Finance Officer" responsible for accounting the sums paid out of the money provided by Parliament for the service of the House; and
- (h) to exercise all powers necessary to implement the provisions of Article 98(1) towards the constitution of a separate, independent and autonomous Secretariat of the House.

8. (1) The Commission may delegate any of its functions to the Speaker or the Secretary-General.

Delegation of the Commission's Functions.

(2) Anything done by or in relation to a person to whom functions are delegated under sub-section (1) shall have the same effect as if done by or in relation to the Commission.

(3) Any delegation made under this section or any amendment or revocation of such a delegation shall be mentioned in the Annual Report of the Commission.

(4) Notwithstanding any delegation made under this Section, the Commission shall retain the ultimate responsibility for considering any representation made in relation to matters affecting the interests in connection with their employment, of staff in the service of the House by staff associations which are recognised by the Commission in respect of such staff, and for the conduct of consultations and negotiations about such matters with those staff associations.

9. No act or proceeding of the Commission shall be questioned or shall be invalid on the ground merely of the existence of any vacancy.

Vacancy etc., not to invalidate the proceedings of the Commission.

10. The Commission shall as soon as possible, after the end of each financial year prepare and present to the House its Annual Report on the exercise of its functions in preceding financial year.

Annual Reports of the Commission.

11. (1) The Commission may make rules to regulate its procedure and conduct of its business.

Power to make Rules.

(2) The Commission may by notification in the Official Gazette make rules to regulate recruitment and conditions of service of the staff of the secretariat.

(3) Every rule made under this Act shall as soon as may be after it is made be laid before the House while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately

following the session or the successive sessions aforesaid, the House agrees in making any modification in the rule or that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be.

(4) Any notice of amendment to such rules given by a member shall stand referred to the Commission which shall consider it and make such changes in the rules as the Commission may consider fit and the final rule made by the Commission after taking into consideration the amendments suggested by the member shall be laid on the Table of the House and, after the House has so agreed on a motion made by a member of the Commission, the rule or amendment to a rule, as the case may be, shall be enforced by the Commission by notification in the Official Gazette.

**Transitional
Provisions.**

13. All persons employed in the service of the House immediately before the commencement of this Act, shall be treated for all purposes as if their appointment had been made by the Commission unless the commission decides otherwise.

Saving.

14. All rules, regulations and orders made or deemed to have been made under Article 98 of the Constitution being in force immediately before the commencement of this Act, shall be deemed to have been made by the Commission and shall continue to be valid and operative unless modified or revoked by the Commission, so however that anything contained therein being inconsistent with any provision of this Act, shall be of no effect and be void to the extent of such inconsistency.

STATEMENT OF OBJECTS AND REASONS

The Concept of an independent secretariat of Parliament is an essential adjunct of Parliamentary democracy. The significance of this conceptualisation of a secretariat independent of the Executive was fully realised in the 1920s when the then Central Legislative Assembly passed unanimously a resolution moved by Pandit Motilal Nehru and seconded by Lala Lajpat Rai. Later, President Vithalbhai Patel ceaselessly endeavoured in this direction.

The independent position of the secretariats of the Houses of Parliament was recognised by the makers of our Constitution when they considered it necessary to incorporate a separate and exclusive article (Art. 98) in the Constitution. This article envisages enactment by Parliament of a law to regulate the recruitment and conditions of service of persons appointed to the secretarial staff of the House. The enactment of such a legislation is long overdue.

The unique position of the Lok Sabha Secretariat demanding, as it does, a special sense of dedication and impartiality in the discharge of their duties, requires a broad-based institutional arrangement representing the House to be statutorily made available to assist the Speaker in watching and safeguarding the interests of the secretarial staff in the service of the House and its members. This institutional arrangement is sought to be made by providing a House Commission. The Bill provides for the establishment of such Commission and matters connected therewith.

SOM PAL.

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to set up a House of the People Commission. Its members are the members of the House who would be discharging their duties in relation to the Commission as members. The expenditure towards the payment of their TA/DA, if any, would be a part of the normal expenditure of the House. The increase in the expenditure, if any, as a result of setting up of the House Commission would be a marginal one and that would not be possible to be quantified in specific terms at this stage.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill seeks to confer the rule-making power on the Commission. The matters in respect of which such rules may be made are matters of procedure and administrative details. The delegation of legislative power is, therefore, of a normal character.

S.S. SOHONI,
Secretary-General.